



# Music License for Live Music Attractions

## 1. DEFINITIONS

- (a) **LICENSEE** shall mean the entity identified on Page 4 herein that promotes a Music Attraction at a Venue, and each of its parent, affiliate, related or subsidiary entities. To promote a Music Attraction is to enter into an agreement with the artist(s) performing at the Venue.
- (b) **Venue** shall include, but not be limited to, a concert hall, stadium, auditorium, civic center, coliseum, theatre, amphitheater, hotel/casino, restaurant/nightclub, stage, park, campgrounds or fairgrounds where a Music Attraction may be held, whether enclosed or not, where a Music Attraction is promoted by LICENSEE, located within the United States of America, its territories and possessions.
- (c) **Music Attractions** shall mean live concerts, music festivals and other similar events occurring at a Venue where music is one of the principal types of entertainment.
- (d) **Music Festivals** shall mean any Music Attractions lasting more than one consecutive day, not to exceed fourteen (14) days duration, that features multiple musical acts/headliners which may vary from day to day.
- (e) **Paid Admission Music Attractions** shall mean live concerts, festivals and events where tickets are sold for admission occurring at a Venue where music is one of the principal types of entertainment.
- (f) **Free to Attend Music Attractions** shall mean any live concerts, festivals and events where no admission, or charge of any kind is required to attend occurring at a Venue where music is one of the principal types of entertainment.
- (g) **Gross Revenues** shall mean: (1) the total receipts from all primary market ticket sales for each Music Attraction, including the total monies paid or payable for admission to the Music Attraction irrespective of whether such monies are received by LICENSEE or a third party with a contractual relationship with LICENSEE; (2) the total monies received by LICENSEE from platforms engaging in secondary market ticket sales, irrespective of whether LICENSEE owns the platform; (3) the total revenues received for service charges, administration or handling charges by any ticket broker (e.g. Ticketmaster) with which LICENSEE has a contractual relationship; (4) the total revenues received by LICENSEE or any third party with which LICENSEE has a contractual relationship for the sale of VIP packages and box suites for a Music Attraction; (5) revenues received by LICENSEE from sponsorships and other forms of advertising the Music Attraction; and (6) any revenues received by LICENSEE from sales of merchandise, concessions, and parking at the Venue. Gross Revenues shall not include state and local taxes on tickets sold. If LICENSEE co-promotes a Music Attraction with one or more additional entities, Gross Revenues shall mean the revenues of all such co-promoters of the Music Attraction.
- (h) **Entertainment Expenses** shall mean the total costs expended by LICENSEE as compensation for artists appearing at the Music Attraction. Entertainment Expenses shall include monies expended for main and supporting artists and/or acts, and all monies paid (including the cost of room, board and transportation) to performers, supporting musicians, booking agents, and agents of the performers. The term "Entertainment Expenses" shall not include "Fixed Costs" not required by the particular entertainer, such as normal stage props and equipment that are not specially required for the entertainer.

## 2. BMI GRANT

- (a) BMI hereby grants to LICENSEE, for the Term of this Agreement, a non-exclusive license solely to perform, present or cause the performance of, as part of Music Attractions in Venues, including recorded music performed in conjunction with Music Attractions before, after or during the intermissions thereof, all the musical works as to which BMI shall have the right to grant public performance licenses during the Term. Such license shall be restricted to performances of music in the manner described herein, and is granted in consideration of payment of the license fees as set forth herein and is subject to all of the terms and conditions hereof. This license does not include: (i) dramatic rights, the right to perform dramatico-musical works in whole or in substantial part, the right to present individual works in a dramatic setting or the right to use the music licensed hereunder in any context which may constitute an exercise of the "grand rights" therein; or (ii) the right to simultaneously broadcast, telecast, cablecast, or otherwise transmit (including by the Internet or on-line service) the performances licensed hereunder to persons outside of the Venue in which they originate.
- (b) BMI reserves the right at its discretion to withdraw from the license granted hereunder any musical work as to which any legal action has been instituted or a claim made that BMI does not have the right to license the performing rights in such work or that such work infringes another composition. In no event shall this agreement authorize the use of BMI music at political rallies, conventions, parades or other political or campaign events.

## 3. INDEMNITY BY BMI

BMI agrees to indemnify, save harmless and defend LICENSEE, its officers and employees, from and against any and all claims, demands or suits that may be made or brought against them or any of them with respect to the performance of any musical works licensed under this Agreement. Such indemnity shall be limited to musical works which are licensed by BMI at the time of LICENSEE's performances. BMI will, upon reasonable written request, advise LICENSEE whether particular musical works are available for performance as part of BMI's repertoire. LICENSEE shall provide the title and the writer/composer of each musical composition requested to be identified. LICENSEE agrees to give BMI immediate notice of any such claim, demand or suit, to deliver to BMI any papers pertaining thereto, and to cooperate with BMI with respect thereto, and BMI shall have full charge of the defense of any such claim, demand or suit.

## 4. BREACH OR DEFAULT/WAIVER

Upon any breach or default of the terms and conditions of this Agreement, BMI shall have the right to cancel this Agreement, but any such cancellation shall only become effective if such breach or default continues for thirty (30) days after the date of BMI's written notice to LICENSEE thereof. The right to cancel shall be in addition to any and all other remedies which BMI may have. No waiver by BMI of full performance of this Agreement by LICENSEE in any one or more instances shall be a waiver of the right to require full and complete performance of this Agreement thereafter or of the right to cancel this Agreement in accordance with the terms of this Paragraph.